

LAW OFFICES
HALEY BADER & POTTS P.L.C.
4350 NORTH FAIRFAX DR., SUITE 900
ARLINGTON, VIRGINIA 22203-1633
TELEPHONE (703) 841-0606
FAX (703) 841-2345
E-MAIL: haleybp@haleybp.com

RECEIVED

FEB 24 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

THEODORE D. KRAMER
ADMITTED IN VA AND DC
E-mail: tkramer@haleybp.com

OUR FILE NO.
1199-103-63

February 24, 1998

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Petition For Rulemaking, Big Fork, Montana

Dear Ms. Salas:

On behalf of Alpine Broadcasting Limited Partnership, permittee of Station KSIL(FM), Wallace, Idaho, I am submitting an original and four copies of its Petition For Rulemaking to modify the FM Table of Allocations, Section 73.202 of the Commission's Rules, to reallocate Channel 264C from Wallace, Idaho to Big Fork, Montana.

Please contact the undersigned if there are any questions concerning this matter.

Sincerely yours,


Theodore D. Kramer

TDK/jjb
Enclosures

No. of Copies rec'd
List ABCDE

024

MMB

Before The
Federal Communications Commission

Washington, D.C. 20554

In The Matter Of)

)
Amendment of Section 73.202(b)
of the Commission's Rules,
FM Broadcast Stations
Wallace, Idaho and
Bigfork, Montana)

MM Docket No. _____
RM _____

RECEIVED

FEB 24 1998

TO: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RULEMAKING

Alpine Broadcasting, Ltd. ("Alpine"), through counsel, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.202(b) of the Commission's Rules, the Table of FM Allotments, by deleting Channel 264C from Wallace, Idaho, allotting Channel 264C to Bigfork, Montana, as that community's first local aural service and amending Alpine's construction permit to specify Bigfork as its new community of license.¹

I. ARGUMENT.

Alpine is the permittee for KSIL(FM), Wallace, Idaho (BPH-960916MD). Alpine seeks to change KSIL's community of license from

¹ While it has imposed a temporary freeze on the filing of further applications in all commercial broadcast services, the Commission will continue to accept and process petitions for rulemaking requesting the allotment of new FM channels to the FM Table of Allotments. See *Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Services Licenses*, MM Docket No. 97234, FCC 97-397, at para. 61 (released November 26, 1997).

Wallace, Idaho to Bigfork, Montana, because Alpine has determined that Bigfork has an overwhelming need for the provision of its first aural service.

Bigfork has a population of 1,100 persons, based on 1990 U.S. Census data. Bigfork is located in Flathead County, on the edge of Flathead Lake, 35 miles south of Glacier National Park. In addition to a variety of outdoor sports and activities, Bigfork offers its residents a diverse selection of municipal services, businesses and cultural resources. As a growing center for fine and performing arts, residents enjoy a multitude of art galleries, craft shops and museums. The town hosts many popular festivals and special events.

Residents of Bigfork are cared for by local doctors and dentists. Children of Bigfork attend local elementary, junior high and high schools. The town also has a local newspaper, the *Bigfork Eagle*. What Bigfork lacks is its own radio station.

Alpine has determined that Channel 264C can be allocated to the city of Bigfork as its first local aural service. An engineering study of the proposed allocations, demonstrating compliance with the technical standards for allocating a new channel, is attached hereto as *Exhibit A*. The proposed Channel 264C allotment can be awarded with a site restriction of 4.1 km southeast of the geographic center of the community, in full compliance with the FM spacing rules. Bigfork is

listed at North Latitude 48° 02' 45" and West Longitude 114° 00' 33". No other full service broadcasters are affected by this proposal and operations from these coordinates would provide city grade service levels as set forth in Section 73.315 of the Commission's Rules.

Should the Commission amend the FM Table of Allotments as requested herein, Alpine will promptly file an application for modification of its construction permit, construct the modified facilities, place those facilities in operation, and will seek a license covering the Bigfork facility.

The proposed change of community of license is mutually exclusive with Alpine's existing authorization at Wallace. The required separation between the KSIL authorized site and the reference coordinates in the proposal is 290 km² whereas the distance between the authorized site and the reference coordinates is only 142.51 km. Therefore, KSIL's construction permit can be modified without affording other interested parties an opportunity to file competing expressions of interest. *See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *as modified by Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094 (1990) ("Community of License MO&O").

² 47 C.F.R. §73.207.

The proposal set forth in this Petition is consistent with the procedures authorized in *Community of License MO&O*. Allotting Channel 264C to Bigfork would permit Bigfork to receive its first FM allocation as well as its first local aural service, thereby serving the highest of the Commission's existing allocation priorities. "[T]here are virtually no populated areas of the country where our higher allotment priorities, such as first reception service, have not been attained. Therefore, as a practical matter, provision of first local aural service is the highest of our allotment priorities which remains in any significant degree unsatisfied."³ Nor will deletion of Channel 264C from Wallace leave Wallace without a local aural service. Station KWAL(AM) is licensed to the community and there is an outstanding construction permit for KQWK(FM) on channel 248C2.⁴

In sum, Wallace has no scarcity of available spectrum, and reallocation of Channel 264C from Wallace to Bigfork would result in a net service benefit to both communities, and will best serve the Commission's allocation priorities and the public interest. Favorable action on the Alpine proposal would thus be in the public interest.

³ 5 FCC 7096, para. 16.

⁴ There is an outstanding Notice of Proposed Rulemaking, MM Docket No. 97-203, DA97-1975, released September 19, 1997, in which the permittee of KQWK(FM) proposes to change its community of license from Wallace, ID to Lolo, MT.

II. CONCLUSION.

For the reasons stated above, the public interest will be served by the allotment of Channel 264C to Bigfork, Montana, as its first FM allocation, as well as its first local aural service. Accordingly, Alpine respectfully requests the Commission institute a rulemaking proceeding that would amend the FM Table of Allotments as follows:

City	Present Allotment	Proposed Allotment
Wallace, Idaho	248C2, 264C	248C2
Bigfork, Montana	---	264C

Alpine further requests the Commission to modify its construction permit to specify Bigfork, MT as its community of license without affording other parties the opportunity to file competing expressions of interest.

Respectfully submitted,

ALPINE BROADCASTING, LTD.



Theodore D. Kramer
It's Attorney

HALEY BADER & POTTS P.L.C.
Suite 900
4350 North Fairfax Drive
Arlington, VA 22203-1633
703/841-0606
February 24, 1998



Broadcast Engineering Services

415 Emerald Forest Lane

Bonny Doon, California 95060

(408)420-1571 (408)457-8099 (FAX) dmsml@well.com

Donald E. Mussell Jr. NCB
Consulting Engineer

Engineering Statement In Support of Petition for Rulemaking Re-Allocate KSIL(FM) Wallace, Idaho to Big Fork, Montana

This engineering statement was prepared in support of a petition to amend 47 C.F.R., Section 73.202(b), the FM Table of Allotments, filed by Alpine Broadcasting Ltd., permittee of KSIL(FM), Wallace, Idaho (Hereafter referred to as "Alpine"). Station KSIL(FM) is currently a construction permit (BPH-960916MD).

The Alpine proposal is as follows:

<u>Community of License</u>	<u>Present</u>	<u>Proposed</u>
Wallace, Idaho	248C2, 264C	248C2
Big Fork, Montana	—	264C

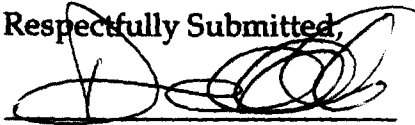
Alpine proposes to modify the Table of Assignments to allocate Ch. 264C to Big Fork, Montana with a site restriction 4.1 km southeast of the geographic center of the community.

As shown in Exhibit 1, the allocation of Ch. 264C meets all of the separation requirements pursuant to Section 73.207 of the Commission's rules from the reference point for Big Fork, Idaho, except as noted above. The proposed change of community is mutually exclusive with the existing Alpine authorization (KSIL) at Wallace, Idaho, therefore the change of community and modification of the KSIL construction permit can be made without affording other interested parties an opportunity to file competing expressions of interest. Wallace, Idaho will retain KWAL(AM), as well as the construction permit for KQWK(FM) as local aural services, subject to any subsequent action on the petition for change of community put forth by the permittee of KQWK(FM).

The substitution of Ch. 264C, Wallace, Idaho for Ch. 264C in Big Fork will permit the first FM allocation, as well as the first aural service to the community of Big Fork, Montana. There are numerous tower sites in the area that would be acceptable for use as transmitting locations for the proposed facility at Big Fork.

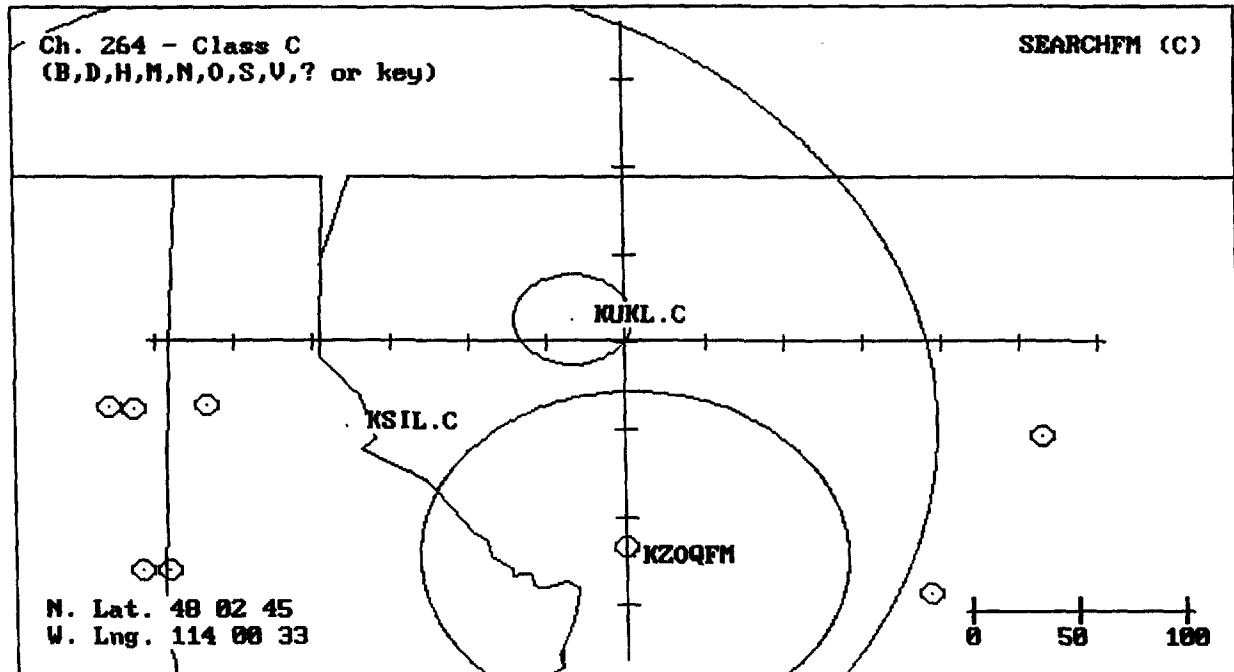
The foregoing technical statement and attached exhibits were prepared on behalf of Alpine by Donald E. Mussell Jr. NCE, its technical consultant. All information contained herein is true and accurate to the best of his belief and knowledge. All data relating to the FM facilities is extracted from the NTIA database as updated February 20, 1998.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "D. Mussell Jr.", written over a horizontal line.

Donald E. Mussell Jr. NCE
February 23, 1998

BROADCAST ENGINEERING SERVICES
415 Emerald Forest - Bonny Doon CA 95060



Class C Spacing Study
Big Fork Montana Reference Point

Search 02-23-98

Data 02-19-98

Current rules spacings

CHANNEL 264 -100.7 MHz

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)

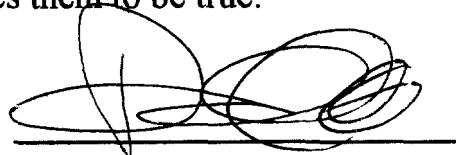
KSIL.C	264C	Wallace	ID	248.6	147.49	290.0	-142.51 *
CP CN	47 33 44	115 50 33	82.000 kW	662M	91.7	180.2	
Alpine Broadcasting, Ltd.					BPH960916MD	980903	
KUKL.C	210A	Kalispell	MT	299.9	29.10	29.0	0.10 <
CP CN	48 10 34	114 20 53	0.850 kW	135M	18.1	18.0	
The University of Montana					BPED950124MC	980215	
>Proposed to Canada as Class A 950323-Accepted by Canada 950418							
KZOQFM	261C1	Missoula	MT	178.9	138.26	105.0	33.26
LI CN	46 48 09	113 58 21	13.500 kW	641M	85.9	65.3	
JS Marketing, Inc.					BLH931116KZ		
>Accepted by Canada as Class C1							

Exhibit 1
Class C Spacing Study
Alpine Broadcasting, Ltd.

**AFFIDAVIT AND QUALIFICATIONS OF
DONALD E. MUSSELL JR.**

State of California)
Bonny Doon)
County of Santa Cruz)

Donald E. Mussell Jr. affirms that he is a consulting radio and electronics engineer; that he is Certified as a Broadcast Engineer, Class 1, by the National Association of Radio and Telecommunications Engineers, Inc.; That he is recognized as a Broadcast Technologist by the Society of Broadcast Engineers; That he held a First Class Radiotelephone License from 1975 until 1985, when it was replaced by a lifetime General Class Radiotelephone license (PG-12-20588), issued by the Federal Communications Commission in January of 1985; that the foregoing report was prepared by him or under his direction; and that the statements contained therein are true to his own personal knowledge except those stated to be on information and belief, and as to those statements, he verily believes them to be true.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

Donald E. Mussell Jr. NCE
February 23, 1998